

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

vs. Case No. 1:10-CV-00910-WCG

NCR CORPORATION, et al.,

## Defendants.

11 Deposition of ROBERT PAULSON

Monday, August 20, 2012

9:05 a.m.

at

U.S. DEPARTMENT OF JUSTICE  
17 West Main Street  
Madison, Wisconsin

Reported by Dawn M. Lahti, RPR/CRR

1	Deposition of ROBERT PAULSON, 8/20/12	Page 2	Deposition of ROBERT PAULSON, 8/20/12	Page 4
2	Deposition of ROBERT PAULSON, a witness		E X A M I N A T I O N	
3	in the above-entitled action, taken at the instance		1 BY MR. MANDELBAUM	6
4	of the Defendants, pursuant to the Federal Rules of		2 BY MR. NILLES	96
5	Civil Procedure, before Dawn M. Lahti, RPR,		3 BY MR. JAMES	102
6	Certified Realtime Reporter, and Notary Public,		4 BY MR. LYONS	103
7	State of Wisconsin, at 17 West Main Street,		5 BY MR. NILLES	137
8	Madison, Wisconsin, on the 20th day of August,		6 BY MR. LYONS	138
9	2012, commencing at 9:05 a.m. and concluding at		7	
10	12:47 p.m.		8	
11	A P P E A R A N C E S :		9	
12	U.S. DEPARTMENT OF JUSTICE ENVIRONMENTAL &		10 E X H I B I T S	
13	NATURAL RESOURCES DIVISION, by		11 EXHIBIT NO.	PAGE MARKED
14	Mr. Thomas J. Dawson		12 4205A List of Individuals for Fox River	
15	17 West Main Street		Cleanup	16
16	Madison, Wisconsin 53207		13 4205B Memo of 2/21/00	32
17	Appeared on behalf of Plaintiffs.		4205C Article, 10/25/97	44
18	U.S. DEPARTMENT OF JUSTICE, by		14 4205D Article, 2/1/98	50
19	Ms. Maya Abela		4205E Article, 7/22/98	59
20	P.O. Box 7611		15 4205F LexisNexis Document, 6/2/00	64
21	Washington, DC 20044-7611		4205G Article, 7/24/00	66
22	Appeared by phone on behalf of the		16 4205H E-mails of 6/2/00	69
23	Plaintiffs.		4205I E-mails of 8/24/99	80
24	GREENBERG TRAURIG LLP, by		18 (Original exhibits attached to original transcript.	
25	Mr. David G. Mandelbaum		Copies of exhibits attached to copies of transcript.)	
1	2700 Two Commerce Square		19	
2	2001 Market Street		20	
3	Philadelphia, Pennsylvania 19103		21	
4	Appeared on behalf of P.H.		22	
5	Glatfelter Company.		23	
6	HUNSUCKER GOODSTEIN & NELSON, PC, by		24	
7	Mr. Marc A. Shapp		25	
8	3717 Mt. Diablo Boulevard, Suite 200			
9	Lafayette, California 94549			
10	Appeared by phone on behalf of Menasha			
11	Corporation.			
12				
13	Deposition of ROBERT PAULSON, 8/20/12	Page 3	Deposition of ROBERT PAULSON, 8/20/12	Page 5
14	1 APPEARANCES CONTINUED:		1 TRANSSCRIPT OF PROCEEDINGS	
15	2 STAFFORD ROSENBAUM, LLP, by		2 ROBERT PAULSON, called as a witness	
16	Ms. Marney I. Hoefer		3 herein, having been first duly sworn on oath, was	
17	222 West Washington Avenue, Suite 900		4 examined and testified as follows:	
18	P.O. Box 1784		5 MR. MANDELBAUM: Hi, Mr. Paulson. My	
19	Madison, Wisconsin 53701-1784		6 name is David Mandelbaum. I represent the	
20	Appeared by phone on behalf of City of		7 defendant P.H. Glatfelter Company, and we've met	
21	Appleton.		8 before. Let's go around the room and on the phone	
22	DAVIS & KUELTHAU, S.C., by		9 so that you know who everybody is.	
23	Mr. Kevin J. Lyons		10 MR. LYONS: Kevin Lyons, Davis &	
24	111 East Kilbourn Avenue, Suite 1400		11 Kuelthau. I represent the Neenah-Menasha Sewerage	
25	Milwaukee, Wisconsin 53202		12 Commission. Good morning again.	
1	Appeared on behalf of Neenah-Menasha		13 MR. NILLES: Good morning. I'm Terry	
2	Sewerage Commission.		14 Nilles, von Briesen & Roper. I'm representing CBC	
3	SIDLEY AUSTIN, LLP, by		15 Coating otherwise formerly known as Riverside Paper	
4	Mr. Jason E. James		16 Company.	
5	One South Dearborn		17 MR. JAMES: Jason James with Sidley	
6	Chicago, Illinois 60603		18 Austin representing NCR Corporation.	
7	Appeared by on behalf of NCR Corporation.		19 MR. DAWSON: Tom Dawson, assistant	
8	von BRIESEN & ROPER, s.c., by		20 attorney general, Wisconsin Department of Justice	
9	Mr. Terry Nilles		21 here with Mr. Paulson.	
10	411 East Wisconsin Avenue, Suite 700		22 THE WITNESS: Robert Paulson.	
11	Milwaukee, Wisconsin 53202		23 MR. MANDELBAUM: And who's on the phone,	
12	Appeared on behalf of CBC Coating, Inc.		24 please?	
13			25 MS. ABELA: Maya Abela on behalf of the	
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Deposition of ROBERT PAULSON, 8/20/12	Page 6	Deposition of ROBERT PAULSON, 8/20/12	Page 8
<p>1 plaintiff, United States of America.</p> <p>2 MR. SHAPP: Marc Shapp for Menasha</p> <p>3 Corporation.</p> <p>4 MS. HOEFER: Marney Hoefer, City of</p> <p>5 Appleton.</p> <p>6 MR. MANDELBAUM: Anyone else?</p> <p>7 (No response.)</p> <p>8 MR. MANDELBAUM: Okay.</p> <p>9 EXAMINATION</p> <p>10 BY MR. MANDELBAUM:</p> <p>11 Q. Mr. Paulson, have you ever been deposed before?</p> <p>12 A. Yes.</p> <p>13 Q. How many times?</p> <p>14 A. Once.</p> <p>15 Q. When was that?</p> <p>16 A. It would have been 19 -- or no, 2005 or '6 time</p> <p>17 frame.</p> <p>18 Q. In connection with this matter or a different one?</p> <p>19 A. Similar. The Town of Vinland and the EPA for the</p> <p>20 disposal of dredged material in the Town of Vinland</p> <p>21 landfill.</p> <p>22 Q. Well, it's been a while, and we like to repeat the</p> <p>23 rules anyway, so I just want to go through the</p> <p>24 ground rules. I'm going to start, and I'm going to</p> <p>25 start asking you questions. And then when I'm</p>		<p>1 A. No.</p> <p>2 Q. Are you on any medications today that would affect</p> <p>3 your memory or your ability to testify?</p> <p>4 A. No.</p> <p>5 Q. Where do you live?</p> <p>6 A. Address?</p> <p>7 Q. Yes, please.</p> <p>8 A. 2183 Edgewood Drive in Grafton, Wisconsin.</p> <p>9 Q. And where are you employed?</p> <p>10 A. WE Energies.</p> <p>11 Q. WE?</p> <p>12 A. Wisconsin Energy Corporation doing business as WE</p> <p>13 Energies.</p> <p>14 Q. WE is spelled?</p> <p>15 A. W-E capital E-N-E-R-G-I-E-S.</p> <p>16 Q. And where is your office?</p> <p>17 A. 333 Everett Street, Milwaukee.</p> <p>18 Q. Can you describe for me or would you please</p> <p>19 describe for me your education after high school?</p> <p>20 A. Graduated from the University of Wisconsin at</p> <p>21 Stevens Point with a bachelor's of science degree.</p> <p>22 Q. When was that?</p> <p>23 A. December of 1981.</p> <p>24 Q. Okay.</p> <p>25 A. I have a master's of science degree from the</p>	
<p>Deposition of ROBERT PAULSON, 8/20/12</p>	Page 7	Deposition of ROBERT PAULSON, 8/20/12	Page 9
		<p>1 through, other people will have an opportunity to</p> <p>2 ask you questions.</p> <p>3 A. Okay.</p> <p>4 Q. I would like you to be certain when you answer my</p> <p>5 questions that you answer my questions verbally.</p> <p>6 Everything you say has to be taken down by the</p> <p>7 court reporter, so nodding your head like you just</p> <p>8 did or saying uh-huh or yep, that doesn't work.</p> <p>9 You need to use a word.</p> <p>10 A. Okay.</p> <p>11 Q. If at any time you don't hear or you don't</p> <p>12 understand my question, please ask me to restate it</p> <p>13 because if you answer my question, we'll assume</p> <p>14 that you heard it and you understood it. Is that</p> <p>15 fair?</p> <p>16 A. Fair.</p> <p>17 Q. If at any time you would like to take a break,</p> <p>18 please just ask. All we ask that you do is that</p> <p>19 you answer the pending question so that the break</p> <p>20 comes after your answer rather than between the</p> <p>21 question and your answer.</p> <p>22 A. Okay.</p> <p>23 Q. Are you feeling okay today? Is there any reason</p> <p>24 why you can't testify truthfully and accurately</p> <p>25 today?</p>	

Deposition of ROBERT PAULSON, 8/20/12	Page 10	Deposition of ROBERT PAULSON, 8/20/12	Page 12
<p>1 A. Wisconsin DNR, November of '89.      2 Q. And what was your role at Wisconsin DNR?      3 A. Initially was an environmental specialist in Bureau      4 of Wastewater Management doing the biomonitoring      5 program, managing that and wastewater permits from      6 '89 until sometime in '92.      7 Q. What happened in 1992?      8 A. I transferred to the Bureau of Water before it      9 became the Bureau of Water Management.      10 Q. And what was your role with the Bureau of Water?      11 A. Title was Great Lakes toxicologist doing      12 toxicological things toward the remedial action      13 plans that were on the Great Lakes, Lake Michigan,      14 lake-wide management plan and contaminated      15 sediments.      16 Q. Did you stay in that role until you left the      17 department, or did you have a different one?      18 A. I took on different assignments at that point, but      19 no, I pretty much stayed in that role until      20 April 2002 when I left the department.      21 Q. And where did you go in April 2002?      22 A. I went to ReTech, an environmental consulting firm.      23 Q. And when did you leave ReTech?      24 A. May of 2004.      25 Q. And where did you go after ReTech?</p>		<p>1 A. Yes.      2 Q. What was your role at ReTech with respect to the      3 Fox River?      4 A. I -- in respect to the Fox River?      5 Q. Let me back up and withdraw the question. What was      6 ReTech's connection with the Fox River?      7 A. ReTech was DNR's consultant that developed the      8 remedial investigation, feasibility study, risk      9 assessment and helped DNR craft the records of      10 decision or proposed plan records of decision.      11 Q. And did you work on that project for ReTech after      12 you left?      13 A. Yes.      14 Q. That is after you left the department?      15 A. After I left the department, correct.      16 Q. Now, are there specific parts of the lower Fox      17 River and Green Bay project that you worked on      18 during your time at the department?      19 A. Yes.      20 Q. Did you have any involvement in the Deposit A --      21 the effort to do a remedial investigation      22 feasibility study on Deposit A in Little Lake Butte      23 des Morts in the early to mid-1990s?      24 A. No.      25 Q. Were you involved with the implementation of the</p>	
<p>Deposition of ROBERT PAULSON, 8/20/12</p>	Page 11	<p>Deposition of ROBERT PAULSON, 8/20/12</p>	Page 13
<p>1 A. Minergy Corporation which is a subsidiary of      2 Wisconsin Electric.      3 Q. And where were you working at Minergy?      4 A. In the Neenah, Wisconsin, engineering office as a      5 manager of business development.      6 Q. And you left Minergy when?      7 A. The company was closed at the end of November 2008.      8 Q. And then you started with WE Energy?      9 A. I was picked up at WE Energies in the environmental      10 department in January of '09, started with them.      11 Q. Okay. Now, did there come a time between when you      12 started at the department -- and I think you said      13 1992?      14 A. No, I started at the department in 1989.      15 Q. 1989, my mistake. Did there come a time when you      16 became involved with PCB contamination in the lower      17 Fox River in Green Bay?      18 A. Yes, approximately that '92 time frame when I      19 transferred to Bureau of Water.      20 Q. And were you involved with the lower Fox River and      21 Green Bay for the entire remainder of your tenure      22 at the department?      23 A. In one aspect or another, yes.      24 Q. And when you went to ReTech, did you continue      25 working on the Fox River?</p>		<p>1 1997 agreement between the State of Wisconsin and      2 certain companies?      3 A. Yes.      4 Q. Were you involved with the -- with all of the      5 implementation of that agreement or only with      6 certain of the projects?      7 A. Primarily all of it as a team leader.      8 Q. So you were involved with the Deposit N remediation      9 project?      10 A. Correct.      11 Q. And you were involved with the Deposit 56 or the      12 SMU 56/57 project?      13 A. Correct.      14 Q. And with the various technical evaluations that      15 were done?      16 A. Correct.      17 Q. And with the natural resource damage assessment --      18 A. Correct.      19 Q. -- and restoration projects; yes?      20 A. Correct.      21 Q. Did you have involvement in the development of the      22 remedial investigation feasibility study for the      23 site?      24 A. Yes.      25 Q. Why was the Department of Natural Resources</p>	

Deposition of ROBERT PAULSON, 8/20/12	Page 14	Deposition of ROBERT PAULSON, 8/20/12	Page 16
<p>1 involved in the remedial investigation feasibility 2 study? Was this a state-led site?</p> <p>3 A. Well, prior to that, we had a working relationship 4 through the Fox River Coalition that was starting 5 to look at a whole river-type strategy, and to some 6 extent the work that had been done prior to that, 7 we -- DNR had the most information and most 8 knowledge of the site, and it just seemed to me -- 9 my understanding is logical to -- that the state 10 would lead that activity.</p> <p>11 Q. All right. Maybe I asked the question inartfully. 12 This is -- there's no -- were you aware of any 13 formal memorandum of understanding which gave the 14 lead on this site to the State of Wisconsin, that 15 is an agreement between the State of Wisconsin and 16 the United States?</p> <p>17 A. Not to my recollection.</p> <p>18 Q. So there was a -- an arrangement under which DNR 19 did certain work and EPA did certain work, correct?</p> <p>20 A. That's fair.</p> <p>21 Q. And which was the lead agency?</p> <p>22 A. In developing the RI/FS?</p> <p>23 Q. Yes, please.</p> <p>24 A. It was DNR as we held the contract with the 25 consultant.</p>		<p>1 MR. DAWSON: Mr. Mandelbaum, when you're 2 saying "the site," are we clear on what that means?</p> <p>3 If you're going to be using that term often --</p> <p>4 MR. MANDELBAUM: Okay. Let's define that 5 then.</p> <p>6 MR. DAWSON: Okay.</p> <p>7 BY MR. MANDELBAUM:</p> <p>8 Q. Do you understand what I mean when I say the lower 9 Fox River and Green Bay site? Do you understand 10 what I mean by that?</p> <p>11 A. My understanding is that is from the outlet of Lake 12 Winnebago to the lower Fox River to the mouth of 13 Green Bay and Green Bay from the mouth of the lower 14 Fox River out to its confluence with Lake Michigan.</p> <p>15 Q. Okay. Is that adequate for your purpose?</p> <p>16 MR. DAWSON: Whatever definition you 17 want. At least we now have a definition.</p> <p>18 MR. MANDELBAUM: Okay. (Exhibit 4205A was marked for identification.)</p> <p>19 BY MR. MANDELBAUM:</p> <p>20 Q. I'm showing you a document that has at the top, Fox 21 River Government Subject Matter Experts 22 December 1999, and it begins at Bates No. 23 EPAAR155127.</p>	
Deposition of ROBERT PAULSON, 8/20/12	Page 15	Deposition of ROBERT PAULSON, 8/20/12	Page 17
<p>1 Q. So DNR had a contract with the consultant, and DNR 2 had an agreement with the United States that it 3 would oversee that contract, right?</p> <p>4 A. Yes, as we got funds from EPA to do the work.</p> <p>5 Q. EPA gave DNR the funds to prepare the RI/FS, to 6 prepare the PRAP and to develop the ROD, is that 7 right?</p> <p>8 A. That's my understanding.</p> <p>9 Q. By RI/FS, you understand I mean remedial 10 investigation and feasibility study, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And by PRAP you understand that I mean proposed 13 remedial action plan?</p> <p>14 A. Correct.</p> <p>15 Q. And by ROD, you understand that I mean record of 16 decision?</p> <p>17 A. Yes.</p> <p>18 Q. So those were primarily DNR work product?</p> <p>19 A. I'm not sure what you mean by primarily.</p> <p>20 Q. DNR or its contractor prepared the draft and then 21 obtained concurrence from other parties rather than 22 concurring in someone else's draft?</p> <p>23 A. That's fair.</p> <p>24 Q. Now, my exhibits are going to be a little out of 25 order, so bear with me one second.</p>		<p>1 MR. LYONS: It's actually two As, David.</p> <p>2 MR. MANDELBAUM: I think I said that.</p> <p>3 It's EPAAR155127. Do you see that document?</p> <p>4 THE WITNESS: Yes, I do.</p> <p>5 BY MR. MANDELBAUM:</p> <p>6 Q. Do you recognize it?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. Are you familiar with the names on this document?</p> <p>9 A. Most of them.</p> <p>10 Q. Does this provide a list, perhaps not a complete 11 list but a list of individuals working on lower Fox 12 River cleanup issues in December 1999?</p> <p>13 A. It appears to.</p> <p>14 Q. Did you work with some or all of these people?</p> <p>15 A. Yes.</p> <p>16 Q. Did you work with people other than people at the 17 Department of Natural Resources?</p> <p>18 A. Yes.</p> <p>19 Q. On a daily or weekly basis you were working with 20 them?</p> <p>21 A. Yes.</p> <p>22 Q. Now, I notice that there are a number of different 23 agencies or organizations listed in the affiliation 24 column and a number of different area codes, if you 25 will, in the phone column. These people were not</p>	